

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SHERI V. OBERT,

Plaintiff,

v.

JO ANNE B. BARNHART, Commissioner of
Social Security,

Defendant.

Case No. C03-5195 RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. §406(b) [Dkt. #19].

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

Plaintiff seeks an award of attorney's fees under 42 U.S.C. § 406(b)(1)(A) which provides that the Court may award plaintiff's attorney "a reasonable fee . . . not in excess of 25 percent of the total of the past due benefits." The parties agree that 25 percent of the past due benefits is \$12,379.75. Plaintiff's attorney Ann Cook was awarded \$5,300.00 for work done at the administrative level; therefore, of that \$12,379.75, \$7,079.75 remains which may be awarded by this Court under § 406(b). *See, Brown v. Barnhart*, 270 F.Supp. 2d 769, 771 (W.D. Va, 2003). Plaintiff was also previously awarded an attorney's fee of \$2,920.00 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. It is therefore

ORDERED that Plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) [Dkt. #19] is **GRANTED**. Plaintiff's attorney shall be awarded \$7,079.75 as a reasonable fee. In order to avoid a double

1 recovery for the attorney, counsel shall refund the \$2,920.00 EAJA award to his client. *Russell v. Sullivan*,
2 930 F.2d 1443, 1446 (9th Cir. 1991).

3 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing
4 pro se.

5 Dated this 10TH day of April, 2006.

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8 RONALD B. LEIGHTON
9 UNITED STATES DISTRICT JUDGE
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